1	2	3	4
11	The Mysore Court Fees and Suits valuation (Amendment) Bill, 1969.	16th May 1969	Governor
12	The Mysore Irrigation (Amendment) Bill, 1968.	5th June 1969	President
13	The Mysore Courts of Civil Judges (Validation Proceedings) Bill, 1969.	19th June 1969	do
14	The Mysore Rent Control (Amendment) Bill, 1969.	9th July 1969	do

Sixteenth Report of the Business Advisory Committee

Mr. SPEAKER.—I present the Sixteenth Report of the Business Advisory Committee.

Sri D. MANJUNATH (Deputy Speaker) I move :

"That this Assembly agrees with the Sixteenth Report of the Business Advisory Committee."

Mr. SPEAKER.—The question is :

"That this Assembly agrees with the Sixteenth Report of the Business Advisory Committee."

The motion was adopted.

Mr. SPEAKER.—The report was adopted.

Laying the Ordinances on the Table of the House

Mr. SPEAKER.—Sri Ramakrishna Hegde, Hon. Minister for Finance, Planning and Youth Welfare, to lay ordinances on the Table.

Sri M. NAGAPPA.—I have sent disapproval resolutions against the Ordinances which are going to be placed on the Table of the House. If they are being placed, they may be taken up for discussion before the Bills are introduced in this House.

Mr. SPEAKER.—The usual procedure in this connectiou is to take up the consideration of the Bills which are intended to replace the Ordinances along with the Resolution for the disapproval of the Ordinance. I shall follow that procedure. Now we are in the stage when the papers are to be laid on the Table. The disapproval resolution cannot come now; it will come later. I assure the Member that it will be taken at the appropriate time.

Sri K. H. PATIL.—If the introduction of the Bill or Ordinance is itself illegal, and not according to the Constitution, it is natural that we must raise the objection in the initial stage itself. If the disapproval resolution is taken into consideration later on that is after the Ordinance is placed on the Table, it will violate our rights. It is better that the Resolution is taken into consideration in the initial stage itself before the Ordinance is laid on the Table. Instead of going into its merits and demerits at a later stage, it is better we go into them before the Government place the Ordinance on the Table.

Mr. SPEAKER.—I understand the observations of the hon. Member Sri K. H. Patil. I shall give my ruling on that point at an appropriate moment. First let the papers be laid on the Table. At the time of the introduction of the Bills, I shall point out the relevant provisions.

Sri H. N. NANJE GOWDA (Arkalgud).—Before laying the Papers, the Government have to bring to the notice of the House the provision under which the Ordinance was issued.

Mr. SPEAKER.—That stage comes later on.

Sri H. N. NANJE GOWDA.—Our objection is that the papers cannot be laid now. There cannot be any other proper time for giving explanation. Otherwise, soon after the papers are laid, we have to take them into consideration.

Mr. SPEAKER.—Not necessarily. When the Hon. Minister introduces the Bill, the hon. Member may raise that objection. Then I shall point out the procedure.

Sri H. N. NANJE GOUDA.—Especially with regard to the laying of papers relating to an Ordinance, I want to know the provision. The Government have already promulgated the Ordinance.

Mr. SPEAKER.—The general practice is when His Excellency the Governor promulgates an Ordinance, it has the effect of law. It is as if it has been enacted by the Legislature of the State of Mysore.

Sri H. SIDDAVEERAPPA (Harihar).—What are the specific provisions under the Constitution for laying the Ordinance ?

Mr. SPEAKER.—The Hon. member can take up the point at the appropriate time.

Sri H. SIDDAVEERAPPA.—Our objection is even with regard to the laying of those papers in respect of which the ordinance has been promulgated. The laying of the other papers not relating to ordinance is all rght.

Mr. SPEAKER.—Already they have been published in the Gazette. They have been circulated to the Members also.

Sri K. PUTTASWAMY (Minister for Law, Labour and Parliamentary (Affairs).—It is the other way about. The hon. Member raising the objection must point out under what rule or provision he is raising it.

Sri H. SIDDAVEERAPPA.—The onus is on the Government, not on us.

Mr. SPEAKER.—I am seized of the matter.

Sri SIVAPPA.—I feel that the Chair would require time to point out the provision. So we shall take up this item on Monday. Now let us take up the otheri tems and proceed, so that you may have time for a thorough study of the point for giving a ruling.

Mr. SPEAKER.—This is a very simple matter.

Sri H. SIDDAVEERAPPA.—Let us take up this point on Monday.

Sri K. PUTTASWAMY.—The hon. Member should quote the rule under which he is taking objection.

Sri H. SIDDAVEERAPRA.—No.

Mr. SPEAKER.—Why this dialogue across the table ? The provition is there in the Constitution.

Article 213 (2) says :

"An Ordinance promulgated under this article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor, but every such ordinance—

(*a*) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly and agreed to by the Legislative Council, if any, upon the passing of the resolution or as the case may be, on the resolution being agreed to by the Council ; and

(*b*) may be withdrawn at any time by the Governor."

So, it is the duty of the Speaker and the Government.

Sri H. SIDDAVEERAPPA.—Article 213 will have to be read with Article 304, sub-clause (*b*). It states :

"Notwithstanding anything in article 301 or article 303, the Legislature of a State may by law—

* * * *

(SRI H. SIDDAVEERAPPA)

(*b*) impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest.

Provided that no Bill or amendment for the purpose of clause (*b*) shall be introduced or moved in the Legislature of a State without the previous sanction of the President."

I have not applied my mind with regard to other Ordinances. With regard to Regulated Market Ordinance, *ab initio* it is void. As the hon. Minister is aware, it is an ordinance amending the Act which is already there and it requires prior assent of the President. The Minister himself conceded that the original Bill was brought after the Select Committee's report. In this particular case, what has happened is, this amendment has far reaching consequences. The democratic bodies have been sent out, I must say, uncermoniously within a night and they have introduced new elements. So what is required is, even for bringing that amendment by way of an ordinance under Art. 304 of the Constitution, it requires the prior assent of the President. I want to know whether permission of the President was received for issuing this ordinance. If it is not there, such illegal things cannot be allowed to be placed before the House. The effect of laying it before the House is, the House will be seized of it and introduction becomes formal. So, I want to know from the Minister, who has a long experience about parliamentary practice, whether there is any rule under which he can place it. I can understand laying of papers, notifications before the House in respect of which there are specific rules. But what about ordinances? The ordinances stand on a different footing. It is not so simple as it appears. In order to place such things on the Table, please show whether it is legal?

MR. SPEAKER.—I have followed the observations made by the hon. Member Sri H. Siddaveerappa, very carefully. According to the constitutional provisions which I just read out, *viz.*, Art. 213 (2), it is obligatory on the part of the Government to lay the ordinance on the Table of the House. If they do not lay it, they will be guilty of dereliction of duty. Therefore it has got to be laid. As regards the implications referred to, the moment it is laid before the House, the House is seized of it and it is open to hon. Members to give notice of motions and resolutions disapproving of it. Nobody can prevent it. Simply because it is laid, it does not mean it is approved. Even the Government might withdraw it later on. Therefore, this is not the time for taking objection. So far as laying of papers is concerned, it is the constitutional requirement and nobody can prevent it. On the other hand it is the bounden duty of the Government to place it on the Table of the House. If they do not do so, it is dereliction of duty. Therfore, hon. Members may kindly accept the ruling.

SRI K. H. PATIL.—On a point of order. The introduction of this will be illegal.

Mr. SPEAKER.—The hon. Member can take objection at the appropriate time. Now it is only laying of papers. At the time of introduction, if the members so desire, they can take objection and not now.

Sri K. H. PATIL.—Even for laying the paper, I have objection. I am just drawing your attention to proviso to Art. 213 (b) which says that no Bill shall be introduced or moved in the Legislature without the previous sanction of the President. When there is no valid order, on the very face of it, it becomes a mere scrap of paper and in my view such scrap of papers cannot be laid before the House. Therefore, laying of the ordinance on the face of it is an invalid act. They have not taken the sanction of the President for it. My point is, in the absence of the assent or permission of the President, if the Governor on the pressure of the Council of Ministers has issued the ordinance, it is not vaild under the Constitution and it will be considered as a scrap of paper.

Sri H. SIDDAVEERAPPA.—My objection viz., under what rule the Government is placing these papers has not been answered.

Mr. SPEAKER.—I have replied to that point. As regards the point whether the ordinance is legal or illegal, it may be considered in the ordinary course when the ordinance comes up for consideration before the House. As regards the constitutionality or legality, I doubt whether this House is the proper authority to go into it. But I am not giving an opinion at this stage.

Sri H. SIDDAVEERAPPA.—I am surprised.

Mr. SPEAKER.—The simple question is about laying of the ordinance on the Table of the House. An ordinance is presumed to be good unless the contrary is proved. Whether it is legal or illegal, the House may consider it at the proper stage. Laying it simply on the Table does not confer any legality or constitutionality on an ordinance. It is only a constitutional requirement of placing an ordinance on the Table of the House.

Sri S. SIVAPPA.—That is agreed; but our hon. friends have questioned the validity of the ordinance.

Mr. SPEAKER.—Let it be done at the proper time.

Sri S. SIVAPPA.—It is an illegal act if they have not taken the permission of the President.

†Sri K. PUTTASWAMY.—Sir, I only submit that the objections raised are rather too premature. You have been pleased to bring to the notice of this House article 213(2) of the Constitution. It makes it clear that all ordinances that have been issued have to be placed on the Table

(SRI K. PUTTASWAMY)

of the House. That is a constitutional position from which we cannot escape. To make the position clearer, I am reading it :

> " (2) An Ordinance promulgated under this article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor but every such Ordinance—
>
> (a) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or if before the expiration of that period a resolution, disapproving it is passed by the Legislative Assembly and agreed to by the Legislative Council, and if any, upon the passing of the resolution or, as the case may be, on the resolution being agreed to by the Council."

SRI H. SIDDAVEERAPPA.—Quote the rule.

SRI K. PUTTASWAMY.—My friend has deen repeatedy asking me to cite the rule. When there is a constitutional provision, no rule is necessary. Even if there be a rule which goes against a provision of the Constitution, that rule will not be valid but the provision of the Constitution will be valid. As the present case is concerned, article 213(2) answers the point. My friend Sri Siddaveerappa wanted me to read further. Further there is an Explanation which reads as under :

> " Where the Houses of the Legislature of a State having a Legislative Council are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause. "

In this particular case, as the Hon. House is aware, the Legislative Council is meeting on the 21st of this month and we propose to place this ordinance on the Table of that House also on the 21st. This ordinance can continue to be law for a period of six weeks by which time the House will have to decide either to enact a Bill or if the House passes a resolution disapproving the ordinance, it goes. I do not know whether my friend wants me to read further. Perhaps he was referring to article 304. Though in my humble opinion it is not necessary for me to answer the point raised with reference to article 304, because I have lot of respect for Sri Siddaveerappa. I shall briefly state my Sub-article (b) of article 304 reads like this :

> " Impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest :
>
> Provided that no Bill or amendment for the purposes of clause (b) shall be introduced or moved in the Legislature of a State without the previous sanction of the President. "

The hon. Members Sri Siddaveerappa and Sri K. H. Patil are perfectly correct in raising this objection, but I will give my reply to this objection at a relevant stage. We are now placing the ordinance on the Table of the House as required under article 213 and when leave of the House is sought for introducing the Bill, if objection is taken I will say what are the reasons that are in favour of introduction. At this stage, I would not like to take the valuable time of this House in answering this point. I hope my hon. Friends would agree with me and allow us to place ordinances on the Table of the House.

Sri H. SIDDAVEERAPPA.—Sir, Rule 122 says :

> " As soon as possible after the Governor has promulgated an Ordinance under article 213 of the Constitution, printed copies of such Ordinance shall be made available to the members of the Assembly."

In this case these copies were not made available to us. They may say that it is printed in the Gazette but copies were made available to us only yesterday *i.e.*, on the 14th August. Thus, there has been a delay in giving us copies also.

3-30 P.M.

†Sri H. N. NANJE GOWDA.—Sir, Article 213 (2) (a) applies only to Ordinances and not to other things. I would like to draw your attention to clause (3) of article 213 wherein it is definitely laid down which are the ordinances that may become void ; it says :

> " If and so far as an Ordinance under this article makes any provision which would not be valid if enacted in an Act of the Legislature of the State assented to by the Governor, it shall be void : "

That means, suppose now if a Bill is to be introduced to replace this Ordinance, this Bill cannot become valid unless it is assented to by the Governor. Otherwise it would become void. Reference was made here to the Mysore Agricultural Produce Marketing (Regulation (Amendment) Ordinance which is sought to be replaced by a Bill to be passed by the Legislative Assembly. This Bill would not become an Act unless it is assented to by the President and not by the Governor. When we take this particular Ordinance under article 304(b) it is essential that the Governor should get instructions from the President for giving assent. In the absence of such instruction, we cannot take up this measure here. That is our objection. I think the Hon. Minister for Parlamantary Affairs should not be in a hurry to rush through this. He should consult the Advocate General and go through the proper procedure. Otherwise it would be very difficult for members to agree to this.

†indicates that the remarks or speeches have not been revised by the member concerned.

Mr. SPEAKER.—The issue before the House is very simple and that is whether the laying of the Ordinance on the Table of the House is proper or not. I have already ruled that it is a constitutional obligation on the part of the Government to lay such Ordinances on the Table of the House irrespective of whether such Ordinances are legal, illegal, constitutional or otherwise.

Sri K. H. PATIL.—Our objection is whether it can be considered at all as an ordinance. You may consider that aspect also before giving your ruling.

Mr. SPEAKER.—I have understood the point. Even if the Ordinance is *ab initio* void or defective there is no difficulty because Article 213 (3) does not make any distinction between an ordinance which is void and an ordinance which is valid. It casts an obligation on the Government to lay on the Table of the House all ordinances whether legal or illegal, void, voidable or invalid, or by whatever description you may choose to call them. It is open to Hon. Members to raise their objection when the relevant Bill to replace the Ordinance is introduced in the House. In fact, they will be failing in their duty if they do not raise objection at that time that the Ordinance was *ab initio* void, and such objection would surely be permitted to be raised. I assure the House that at that time full opportunity would be given to hon. Members to raise their objection.

Papers laid on the Table

Mr. SPEAKER.—Papers as per list separately circulated to hon. members may be taken to have been laid on the Table.

List of Papers separately circulated

I Sri MOHAMED ALI (Minister for Transport).—to lay :

(*a*) (i) Notification No. HD 95 TMT 67 dated 24th March 1969 ; Reduction of tax payable in respect of stage carriages under the Act ;

(ii) Notification No. S. O. No. HD 43 TMT 67 dated 5th March 1969 ; Reduction of tax payable in respect of stage carriges under the Act ;
1969 ;

(iii) Notification No. HD 3 TMT 68 dated 15th March 1969 ; Reduction of tax payable in respect of stage carriages under the Act :

(iv) Notification No. HD 148 TMT 68 dated 5th April 1969 ;